

John F. Kennedy

September 14, 2010

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOHN H. AUTREY,

Plaintiff,

Civil Action

-vs-

No. 10-10189-

Detroit Police Officer DARRYL OSBORNE,  
Detroit Police Officer JOHN F. KENNEDY, badge S-168  
Detroit Police Commander BRIAN R. STAIR,  
Detroit Police Deputy Chief CHESTER LOGAN,  
Detroit Police Asst. Chief ROBERT DUNLAP,  
Detroit Police Chief of Police ELLA BULLY-CUMMINGS,  
The CITY OF DETROIT, a Municipal Corporation,

Defendants.

/

The Deposition of JOHN F. KENNEDY, taken  
before me, Darlene K. May, CSR-6479, a Notary Public, within  
and for the County of Oakland, (Acting in Wayne), State of  
Michigan, at 660 Woodward Avenue, 1650 First National Building,  
Detroit, Michigan, on Tuesday, September 14, 2010.

APPEARANCES:

ROBINSON & ASSOCIATES, P.C.  
BY: DAVID A. ROBINSON, ESQ.  
28145 Greenfield Road, Suite 100  
Southfield, Michigan 48076  
(248) 423-7234

Appearing on behalf of Plaintiff,

RELIANCE COURT REPORTING  
(313) 964-3611

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(313) 964-3611

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APPEARANCES (Continued):

CITY OF DETROIT - LAW DEPARTMENT  
BY: JERRY L. ASHFORD, ESQ.  
660 Woodward Avenue  
1650 First National Building  
Detroit, Michigan 48226  
(313) 237-3089

Appearing on behalf of Defendants.

RELIANCE COURT REPORTING

(313) 964-3611

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**(313) 964-3611**

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WITNESSES:

PAGE

4

JOHN F. KENNEDY

5

Examination by Mr. Robinson

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Examination by Mr. Ashford

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EXHIBIT:

DESCRIPTION

MARKED

11

No. 1

Memo Dated 1/22/08

32

12

No. 2

6/8/07 Investigator's Report

34

13

No. 3

Detroit Police Web Manual

54

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1 Detroit, Michigan

2 Tuesday, September 14 2010

3 10:26 a.m.

4 - - -

5 JOHN F. KENNEDY

6 was thereupon called as a witness herein, and after  
7 having been first duly sworn to tell the truth, the  
8 whole truth and nothing but the truth, was examined and  
9 testified as follows:

10 - - -

11 MR. ROBINSON: This deposition is taken  
12 pursuant to Notice and to be used for any and all  
13 purposes under the applicable Rules.

14

15 EXAMINATION

16 BY MR. ROBINSON:

17 Q. State your name for the record, sir.

18 A. John Fitzgerald Kennedy.

19 Q. What's your date of birth?

20 A. 7-24-1965.

21 Q. You're currently a member of the Detroit Police  
22 Department?

23 A. Yes.

24 Q. And where are you assigned?

25 A. I'm assigned to personnel and assigned out to the Detroit

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1 Police, Lieutenants and Sergeants Association.

2 Q. Have you ever had your deposition taken before?

3 A. Yes.

4 Q. More than once?

5 A. I believe so.

6 Q. Can you tell me about those things, those times?

7 A. Both lawsuits had to deal with use of force.

8 Q. Okay. I'm going to get back to that.

9 The court reporter is here, nice  
10 gorgeous court reporter, Darlene May. And she is going  
11 to take down on this machine everything that you and I  
12 say. It's important that when you hear my question, that  
13 your response be verbal so that she can keep an accurate  
14 record of everything that we talk about. If you don't  
15 understand something that I say, let me know. Okay?

16 A. Yes.

17 Q. Now, I want to get your background as a police officer.  
18 And just let me, without having to do the math, how old  
19 are you?

20 A. 45.

21 Q. You became a police officer at what age?

22 A. A sworn police officer in -- I was 28.

23 Q. Okay. Working your way back from personnel assigned out  
24 to lieutenant sergeants' association, when did you go to  
25 personnel? What year?

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1 A. That would be January of 2009.

2 Q. And I'm sorry. I should've asked. What is your rank?

3 A. Sergeant.

4 Q. And from 2009 until the present, you've been at the  
5 personnel signed out to LSA?

6 A. That's correct.

7 Q. When you went to personnel, what was your job assignment?

8 A. Well, that's where I'm at, as far as personnel, that's  
9 where they transfer me to be a delegate or a union  
10 official for the LSA. So I've never actually worked in  
11 personnel.

12 Q. How did you get that job?

13 A. I was elected by the -- an election done by the  
14 Lieutenants and Sergeants Association.

15 Q. What do you do as a delegate?

16 A. I am the sergeant at arms for the Lieutenants and  
17 Sergeants Association.

18 Q. And what do you do as a sergeant at arms?

19 A. In that function I am to handle grievances that LSA  
20 members have against violations of the contract with the  
21 city of Detroit and any other functions that the  
22 president of the association needs me to handle.

23 Q. Okay. And your term is from what to what?

24 A. It's a two-year term. It started January of 2009 and it  
25 will conclude, if I'm not reelected, December 31st of

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1           this year.

2    Q.     Okay. Do you have any police responsibilities outside of  
3           the LSA?

4    A.     I'm a sworn police officer. So I still have functions as  
5           a police officer.

6    Q.     And let me get the understanding. On duty is this your  
7           assignment, LSA?

8    A.     That's correct.

9    Q.     Would you be subject to, if a need arose, say, to do a  
10          parade detail or something like that? Something like  
11          that?

12   A.     I would say no.

13   Q.     But you would be subject to recall or something like that  
14          if there was some kind of riot or something?

15   A.     That's correct.

16   Q.     And I take it in this position you don't wear a uniform?

17   A.     That's correct.

18   Q.     Now, where were you prior to being transferred to  
19          personnel?

20   A.     Internal Affairs.

21   Q.     And let me ask you a question. Has this LSA assignment  
22          always been worked out of personnel?

23   A.     No. In my particular case, they transferred me to  
24          personnel from Internal Affairs.

25   Q.     Okay. But that was specific to working in your role as

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1 the sergeant at arms for LSA?

2 A. No. No, it isn't.

3 Q. So how does that work?

4 Because -- let me just explain to you,  
5 it was my understanding that DPOA and LSA were like  
6 unions that were even housed in, you know, locations that  
7 had nothing to do with the police department.

8 A. That's correct.

9 Q. So I don't understand the relationship.

10 A. Every elected official, irregardless to if they're the  
11 DPOA or LSA has a parent command and they are assigned  
12 out from their parent command to the union.

13 Q. Okay. But where do you report to work?

14 A. The union office.

15 Q. And where is that?

16 A. 28 West Adams.

17 Q. Okay. 28 West Adams?

18 A. Suite 700.

19 Q. Now, is that across the street from where personnel is?

20 A. No, it is not.

21 Q. Personnel is on what street?

22 A. Sherwood.

23 Q. Sherwood. Sherwood over on the east side?

24 A. That's correct.

25 Q. So where personnel used to be on Elizabeth and -- I



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1 forget the street that's just --

2 A. Park.

3 Q. Park. Personnel is not there anymore?

4 A. For a long time.

5 Q. Okay. So is there any police department business carried  
6 on in that old building?

7 A. To my knowledge, no.

8 Q. So personnel now is at Sherwood and what?

9 A. It would be north of Six Mile. East McNichols.

10 Q. All right. That makes sense. So when did you run for  
11 office?

12 A. That would be September of 2008.

13 Q. And why did you run for office?

14 A. I was asked.

15 Q. Asked by whom?

16 A. I can't think of -- it was several people that asked me.  
17 One was Sergeant Debra Fears, one was sergeant -- it  
18 escapes me.

19 Steve Allen, Steven Allen. Those were  
20 the two that I know right off the top of my head.

21 Q. Where did you know Debra Fears from?

22 A. Court section.

23 Q. And Steven Allen?

24 A. Personnel. I'm sorry, property section.

25 Q. Now, when did you first go to Internal Affairs?

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1 A. That would be January of 2003.

2 Q. And did you stay at personnel -- I'm sorry. Internal  
3 Affairs from '03 to '09?

4 A. Yes.

5 Q. Was there any assignments, even temporary assignments  
6 being assigned out from 2003 to 2009?

7 A. Yes, there were.

8 Q. Tell me about those.

9 A. I was assigned out to narcotics for -- I think it was  
10 three weeks.

11 Q. What was that for?

12 A. Due to my previous expertise in a certain area, the  
13 supervisors were all on furlough and they needed a  
14 supervisor to come in and run one of the crews while  
15 these individuals were on furlough and they dug down deep  
16 and found me.

17 Q. What was your expertise?

18 A. I was a supervisor that knew morality and vice work.  
19 That was my previous assignment for six, seven years  
20 prior to that.

21 Q. Now, for the six years other any assignments out?

22 A. No.

23 Q. That was for three weeks. When did that occur?

24 A. That was in 2005. That was the year my wife died, in  
25 2005.

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1 Q. What specifically did you have to do?

2 A. I ran a group of individuals to do morality work. That  
3 is, we did the locking and arresting of prostitutes,  
4 inspections of liquor establishments. OTE, which stands  
5 for offer to engage operations where individuals solicit  
6 decoys for the purposes of prostitution, which we  
7 impounded their cars. I think that just about covers it.  
8 And arrest the prostitutes in and off itself.

9 Q. Now, the people that you replaced temporarily, who would  
10 those supervisors have been, if you know?

11 A. I don't know.

12 Q. Who were you assigned to supervise? What individuals?

13 A. Oh, I don't remember.

14 Q. You were assigned to supervise a crew?

15 A. Yes.

16 Q. Why was that so important that you -- and I understand  
17 you said you had this expertise.

18 But was there some particular event that  
19 was happening such that it took someone of your expertise  
20 to be assigned out three weeks for that specific  
21 purpose?

22 A. I don't know.

23 Q. And who came to you and said you're going to do this?

24 A. Commander Stair, who is the commander in charge of  
25 Internal Affairs, indicated that I think it was -- I

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1 don't know if she was an inspector, Jan Johnson, or

2 Commander Jan Johnson requested that I be assigned out

3 for this purpose.

4 Q. Did Jan Johnson name you or did she just say I need  
5 somebody?

6 A. Me.

7 Q. Did you ever work for Jan Johnson before?

8 A. No.

9 Q. And she was an inspector over at narcotics?

10 A. I don't know if she was an inspector or commander. I  
11 can't remember.

12 Q. But she was in narcotics?

13 A. Yes.

14 Q. Now, traditionally, for the assignment of morality, that  
15 would all come out of vice, right?

16 A. Yes. Vice was underneath narcotics.

17 Q. Vice was underneath narcotics?

18 A. That's correct.

19 Q. So, now, your experience at Internal Affairs, what was  
20 your rank?

21 A. Sergeant.

22 Q. And when you got there, you were a sergeant?

23 A. That's correct.

24 Q. Now, let me ask you, professional accountability section,  
25 is that another name for Internal Affairs today?

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1 A. Internal Affairs used to be called Professional  
2 Accountability Bureau back in 2003. And there was  
3 several reorganizations where it went from Internal --  
4 Professional Accountability Bureau to Internal Affairs  
5 Section to Internal Affairs.

6 Q. And 2007, what was it?

7 A. Internal Affairs.

8 Q. You became a police officer in what year?

9 A. 19 -- sworn police officer in 1993. February 22nd.

10 Q. Now, you keep saying sworn police officer. Were you  
11 something else?

12 A. Yes. I was a civilian employee working for the police  
13 department from January 14th, 1991 until I was hired in  
14 as a police cadet February 22nd, 1993.

15 Q. And when you say a "police cadet," are you talking about  
16 a recruit in the academy?

17 A. Yes.

18 Q. As a civilian employee, where'd you work?

19 A. I worked for victim services.

20 Q. And what was that?

21 A. Where my function was to transport individuals of sexual  
22 assault, armed robbery and child abuse back and forth to  
23 court and explain the court proceeding as far as give  
24 them an elementary version as to what they are going  
25 through in that court proceeding.

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1 Q. Okay. Now, when you got to IA in 2003, what were your  
2 various assignments?

3 A. To investigate allegations of criminal misconduct and  
4 also violations of the department's rules and  
5 regulations.

6 Q. Now, did you ever work intelligence?

7 A. No.

8 Q. So you had officers working for you or not?

9 A. (No response.)

10 Q. You didn't have a crew, did you?

11 A. No. No, I did not.

12 Q. So did you do the same job for the six years rather than  
13 the three months that you were away to investigate  
14 allegation of criminal misconduct, rules, violation?

15 A. Yes.

16 Q. Who were your supervisors?

17 A. When I first got to Internal Affairs, it was Inspector  
18 Fred McClure. Then I reported to a sergeant -- well, now  
19 Lieutenant Candace Kalimi. And then after McClure I  
20 think that was Steve Dolunt, Walter Long. Then it became  
21 Lieutenant Sydney Holmes, Lieutenant Pastel Williams, and  
22 then I believe, finally, it would've been Lieutenant  
23 Whitney Walton and Commander Brian Stair.

24 And then there were like three or four  
25 deputy chiefs that were in charge as well that gave me

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1 assignments to do.

2 Q. Who were those?

3 A. Donald Parshell, Willie Burden, Fred Campbell, Walter  
4 Martin and I think that's all of them.

5 Q. Parshell, Burden, Campbell?

6 A. And Walter Martin.

7 Oh, I'm sorry, Gary Brown.

8 Q. And in 2007, May of 2007, what deputy chief?

9 A. None.

10 Q. There was no deputy chief in May of 2007?

11 A. No. The commanding officer was Commander Brian Stair and  
12 second in command would've been Lieutenant Whitney.

13 Q. Whitney?

14 A. Whitney Walton, W-a-l-t-o-n.

15 Q. Did you ever meet with any chief of police during 2003 to  
16 2009 on your Internal Affairs for any purpose?

17 A. I can't recall. I'm sure I did, though.

18 Q. This case concerning Mr. Autrey, did you ever meet with  
19 any chief of police?

20 A. No.

21 Q. Now, where did you come from when you -- what was your  
22 assignment before Internal Affairs?

23 A. Ninth Precinct, patrol.

24 Q. And you had been there for how long?

25 A. About six months.

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1 Q. And when you say "patrol," that was through radio runs,  
2 writing tickets?

3 A. That's correct. I was supervisor. I was patrol  
4 supervisor.

5 Q. And then prior to that where were you?

6 A. Prior to that I was assigned to the vice section.

7 Q. And were you a supervisor there?

8 A. Supervisor and police officer.

9 Q. So you got promoted while you were at vice?

10 A. That's correct.

11 Q. When were you promoted?

12 A. May 4th of 2001.

13 Q. So when did you first go to vice?

14 A. 1995.

15 Q. How did you get to vice?

16 A. The chief of police at that time, Mike McKinnon, asked me  
17 where did I want to go. I was assigned to his detail and  
18 I was no longer needed on his detail and he asked me  
19 where did I want to go.

20 Q. What detail were you assigned with Ike McKinnon?

21 A. Chief surveillance and body guard.

22 Q. So back up now. You went to vice section. You were  
23 promoted in 2001. You went to vice in 1995?

24 A. That's correct.

25 Q. You became a police -- sworn police officer in 1993?



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1 A. That's correct.

2 Q. Where did you work in 1993 when you were first  
3 assigned?

4 A. Tactical services section as a patrol officer.

5 Q. And what did they do?

6 A. They were citywide response unit and we did basic support  
7 for all the precincts that were shorthanded.

8 Q. Right out of the academy?

9 A. Yes.

10 Q. And you stayed there for how long?

11 A. Until, maybe, mid-1994.

12 Q. Then, in 1994, where'd you go?

13 A. From '94 until I was transferred to vice I was assigned  
14 to the chief's office.

15 Q. How did you get that job?

16 A. Former Commander Simmons. I can't remember what his  
17 first name was. He came to me over at TSS. He  
18 remembered me.

19 Q. David Simmons?

20 A. David Simmons. Yes. He approached me. He was assigned  
21 to the chief's office at that time and he approached me.  
22 He said he knew what kind of worker I was and he needed  
23 me for special detail for Ike McKinnon.

24 Q. I apologize. Dave knew you from where?

25 A. He knew me from being a police reserve assigned to him at

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1 crime prevention.

2 Q. So in 1994 Dave approached you?

3 A. Yes.

4 Q. He sought you out at tactical services section?

5 A. That's correct.

6 Q. And he asked whether or not you wanted to come to the  
7 chief's office?

8 A. That's correct.

9 Q. And your job at the chief's office was surveillance?

10 A. Surveillance and personal protection for Chief McKinnon  
11 and his family.

12 Q. Who else worked there with you?

13 A. The initial ones were Herman Perry. He was the sergeant  
14 that was in charge of the crew and Michael Baker.

15 Q. And you did that from 1994 until 1995; is that correct?

16 A. Yes.

17 Q. What was the reason for leaving the chief's office to go  
18 to vice?

19 A. They were -- the unit was getting larger.

20 Q. Which unit?

21 A. The surveillance unit. And some of the hours that they  
22 wanted us to work, I couldn't do. So he asked me where I  
23 wanted to go.

24 Q. And you're saying he. He who?

25 A. Well, actually, it would've been Sergeant Perry asked me

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1           where did I want do go. And he gave me three options  
2           which was back to tactical services section, violent  
3           crimes task force or vice.

4    Q.     And you said vice?

5    A.     Yes. Because I knew the sergeant there.

6    Q.     Who was the sergeant?

7    A.     George Hall.

8    Q.     And how did you know George Hall?

9    A.     From my actual job working at a auto parts store and he  
10          would come in and give me police stories.

11   Q.     Now, you became a reserve when?

12   A.     '88. 1988.

13   Q.     In 1988 you were how old?

14   A.     23.

15   Q.     And you were reserve for how long?

16   A.     Up until I joined the police department, I think.

17   Q.     Okay. Do you have any relatives on the police  
18          department?

19   A.     No.

20   Q.     But you knew a lot of people before you became --

21   A.     Yes.

22   Q.     -- a police officer?

23   A.     Yes.

24   Q.     Obviously. When you were a reserve is that when you  
25          worked at the auto parts store?

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1 A. Yes.

2 Q. And what auto parts store?

3 A. Specter Auto Parts, 8121 Livernois. It's not there  
4 anymore. It's Richards Auto Parts now, I believe.

5 Q. How long did you work there?

6 A. Up until I joined the police department. I think I  
7 worked there 11 years from 1982 to 1993.

8 Q. And when'd you graduate from high school?

9 A. 1983.

10 Q. Where'd you go to high school?

11 A. Northwestern.

12 Q. Any college?

13 A. Yes.

14 Q. Where?

15 A. Detroit College of Business, which is now Davenport  
16 University and Lewis College of Business.

17 Q. Did you get degrees?

18 A. Three.

19 Q. Which degrees do you have?

20 A. I have a degree in computer information systems, business  
21 administration and accounting. All three are associates.

22 Q. Why did you want to become a cop?

23 A. I just always wanted to be one. Adam-12, you know, stuff  
24 like that.

25 Q. Now, how did you get to Internal Affairs? Did I ask you

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1           that?

2     A.     No, you didn't. I was approached by a lieutenant that  
3           worked at Internal Affairs, Lieutenant Roosevelt  
4           Lawrence.

5     Q.     He and I were in the academy together.

6     A.     Oh, okay. And he asked me if I was interested in coming  
7           to work at Internal Affairs. Actually, he asked me if I  
8           wanted to come work -- because I think he was in charge  
9           of surveillance or something like that.

10    Q.     All right. And again, I'm sorry. By the time you got to  
11           Internal Affairs it was 2003 and you were promoted in  
12           2001. So you were already a sergeant. Was Roosevelt a  
13           lieutenant at the time?

14    A.     I can't say. I think he was. I'm not for sure.

15    Q.     So how did you know Roosevelt?

16    A.     Crime Prevention.

17    Q.     Now, you said you had met Dave at -- when Dave was -- was  
18           David at Crime Prevention?

19    A.     That's where I normally saw him, in the Crime Prevention  
20           office. So I just assume that's where he worked.

21    Q.     At the time you met Dave were you reserve?

22    A.     Yes.

23    Q.     So you were reserve when you first met Roosevelt  
24           Lawrence?

25    A.     Yes.

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1 Q. And he just took a shine to you, apparently?

2 A. I guess.

3 Q. Now, let's talk about all the training that you've had as  
4 a police officer. You went to the academy, of course?

5 A. Yes.

6 Q. And that was 16 weeks?

7 A. I thought it was 18.

8 Q. Okay. You had training in the academy. Outside of the  
9 academy, what training have you had?

10 A. Hostage negotiation, executive protection, first  
11 responders, terrorism training, raid entry training,  
12 tactical shotgun training, interrogation and techniques  
13 training, cyber crimes training. I've had a lot more. I  
14 just can't remember them all. I've been through a lot of  
15 training.

16 Q. Now, when you went to Internal Affairs in 2003, did you  
17 receive any training?

18 A. Yes. I think that was one of the classes was the  
19 interrogation techniques training.

20 Q. You're uncertain about that?

21 A. No. That's where I did go.

22 Q. Where did you go?

23 A. It was a class sponsored by the department, given by  
24 Zeiwagler.

25 Q. He's a police officer?

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1 A. Oh, it was an agency that was brought in to teach the  
2 class.

3 Q. How long was the class, a day or something?

4 A. A week.

5 Q. Okay. Any other training?

6 A. I have had some but I just can't remember at this point.

7 Q. Any other training in Internal Affairs specifically?

8 A. Yeah. I know I've been to a couple of other training. I  
9 just don't know what the classes were right now. I don't  
10 know.

11 Q. Now, in your other assignments, tactical service section,  
12 you were a police officer and you were support for the  
13 other precincts, et cetera, correct?

14 A. Yes, sir.

15 Q. So you all would've gotten radio runs, but that was the  
16 exception more than the rule; is that accurate?

17 A. Yes.

18 Q. If something happened, then you guys would respond?

19 A. That's correct.

20 Q. So you didn't do any -- you just made arrests?

21 A. Yes.

22 Q. Responded to, maybe barricade gun man situations, things  
23 like that?

24 A. Yes. And in certain instances we were put in the system  
25 to answer police runs when certain precincts were

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1           shorthanded.

2       Q.     Chief's office you did surveillance and personal  
3           protection. So you didn't really need to do reports and  
4           like PCRs or anything like that?

5       A.     No.

6       Q.     When you went to vice, what exactly did you do at vice?

7       A.     As a police officer I wrote tickets to prostitutes,  
8           undercover operations, enforced all the liquor laws in  
9           the state of Michigan, city, state and local.  
10          Surveillance, part of a raid crew when we did raids on  
11          after hours establishments. Arrests. Police reports,  
12          other types of reports. I think that just about covers  
13          it.

14      Q.     And when you became a sergeant, how did that change?

15      A.     It didn't vary. I still had the same functions but also  
16          was responsible for the crew that was under me.

17      Q.     And then when you went to Internal Affairs you had  
18          interrogation training and some other training, but you  
19          don't exactly remember what?

20      A.     Yes. I know I did. I had some more training. I just  
21          can't remember the classes.

22      Q.     If you remember while we're talking, shoot it out to me.

23      A.     Oh, okay.

24      Q.     Now, your job in Internal Affairs was to investigate  
25          police officers and other City employees for criminal



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1 activities?

2 A. That's correct. I didn't say other City employees. You  
3 added it, but that is correct.

4 Q. Right. Is there a difference in your opinion in  
5 investigating a police officer for a crime versus a  
6 regular citizen?

7 A. No, it isn't.

8 Q. As an investigator investigating crimes, you know,  
9 characteristically, I guess you would call the  
10 investigator a detective. Would you agree with that?

11 A. Not necessarily, no.

12 Q. Okay. What is the role of an investigator investigating  
13 alleged crime?

14 A. Like investigate it, you find if there was a crime that  
15 was committed and if the person that you're investigating  
16 committed the crime, interviewing witnesses, canvassing  
17 and formulating enough information to present possible  
18 charges to the local prosecutor for possible criminal  
19 recommendation.

20 Q. When you studied for the promotional examination, what  
21 materials did you study?

22 A. The Detroit Police Manual and then there were several  
23 other books that were part of the bibliography for  
24 studying. I don't remember the names right now.

25 Q. I remember in the old days there was something called

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1 Green Monster, Fundamentals for Criminal Investigation.

2 Did you study anything like that?

3 A. I don't remember.

4 Q. Did you receive any specific classes on investigating  
5 police officers for crimes? Specific to police officers,  
6 yes or no?

7 A. I can't recall.

8 Q. Now, the only investigative experience -- you didn't have  
9 any investigative experience until you got to Internal  
10 Affairs, right, up to that point?

11 A. Some.

12 Q. I went over that. What investigative experience did you  
13 have?

14 A. Well, when I worked at vice section, we did surveillance  
15 and we did investigation and reports there. We did  
16 warrant requests to the prosecutor's office. There was a  
17 minute, a small level of the investigations that I did  
18 prior to coming to Internal Affairs.

19 Q. But that's the extent of it, right?

20 A. Yes.

21 Q. And there was no specific training when you went to  
22 Internal Affairs that you got in investigating police  
23 officers for misconduct versus citizens, right?

24 MR. ASHFORD: Objection. Asked and  
25 answered.

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1 BY MR. ROBINSON (Continued):

2 Q. You can answer it again. No specific thing?

3 A. I can't recall.

4 Q. You talked about the role of an investigator. Run those  
5 past me again.

6 A. Well, you find out if a crime did happen, interview  
7 witnesses, canvas. Find out who did it and if so, put a  
8 warrant package together, present it to the prosecutor's  
9 office for warrant recommendation or criminal  
10 recommendation.

11 Q. Now, did you review any records in order to prepare for  
12 your deposition today?

13 A. Briefly.

14 Q. What records did you review?

15 A. My initial investigation and report that I had prepared  
16 in relationship to former Commander John Autrey.

17 Q. Do you have that with you?

18 A. Yes.

19 Q. May I see that?

20 Now, did you also investigate the claim  
21 against Todd Bettison.

22 A. Yes, I did.

23 Q. Both of those are assigned to you?

24 A. Yes.

25 Q. Now, how did you get this assignment?

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1 A. I was on alert, which is at Internal Affairs they have an  
2 alert team where individuals respond out to incidents  
3 over a 24-hour period for one week and I received a call  
4 from Commander Stair in the early morning hours, April  
5 of -- it was '07, April of '07 to respond to the area of  
6 Seymore and Hayes because Commander Bettison had been  
7 involved in an accident and it appears that he may have  
8 been drinking.

9 Q. Now, when you say it appears that he may have been  
10 drinking, when did you learn that?

11 A. That was when Commander Stair told me that over the  
12 phone.

13 Q. And that's what Stair told you over the phone?

14 A. Yes.

15 Q. And when you say you were on alert, you were at home or  
16 something like that, but you were still subject to 24 --

17 A. Call.

18 Q. Call?

19 A. Yes.

20 Q. And then you received a call. What did you do?

21 A. I got up. Took a shower, put some clothes on and I  
22 responded to the area of Seymore and Hayes.

23 Q. And I apologize. Do you remember what time it was that  
24 you received that call?

25 A. It was like 5:00 or 6:00 in the morning. Something like

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1           that.

2       Q.     Where were you coming from, home?

3       A.     Home.

4       Q.     And without telling me your address, are you west side or  
5           east side?

6       A.     West.   Northwest.

7       Q.     When you got to Seymore and Hayes, what did you see?

8       A.     There were two marked scout cars with their overhead  
9           lights working on the two intersections, blocking the  
10          intersection.   There was a tow truck getting ready to  
11          hookup the -- it was a black Chevrolet Impala with an "X"  
12          plate on it, City of Detroit plate on it that had  
13          extensive accident damage to it.   And prior to the tow  
14          truck driver hooking the vehicle up, I asked him, let me  
15          take a look at the car and I illuminated with my  
16          flashlight, looked in the inside of it and in the rear  
17          driver's side I saw a top to what appeared to be some  
18          type of alcoholic beverage bottle with the letters "S",  
19          "H" on top of it.   And when I saw that, I took a picture  
20          of it.

21      Q.     Do you have a picture of that with you?

22      A.     No.

23      Q.     Is that in your file?

24      A.     No.   I don't work at Internal Affairs anymore so I don't  
25          have access to those files.

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1 Q. Go ahead. Took a picture?

2 A. I took a picture of it and then I contacted Commander  
3 Stair by cell phone and I said that, "Yes, I see a liquor  
4 bottle in the backseat."

5 Q. A liquor bottle?

6 A. A liquor top in the back of Commander Bettison's car and  
7 it appears that he was HBD.

8 Q. What is HBD?

9 A. Had been drinking.

10 Q. Now, you assumed that just by virtue of seeing a bottle  
11 top?

12 A. Yeah. That was just an assumption.

13 Q. And what was that, you call it? It had letters on it?

14 A. "S", "H".

15 Q. "S", "H". And you took a picture. Did you take a  
16 picture of anything else?

17 A. I took a picture of the car and I think I took a couple  
18 pictures of the accident area from a long view.

19 Q. Okay. Were you by yourself?

20 A. There were other -- I was the only person from Internal  
21 Affairs there, yes.

22 Q. And did you interview any people on the scene?

23 A. No. Not to the fact that I was taking statements or  
24 anything because I knew the officers were going to be  
25 responsible for doing police reports. So they were the

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1           only two. There was four officers there and then the toe  
2           tuck driver.

3                       MR. ROBINSON: Jerry, do you have a copy  
4           of this picture that he's talking about?

5                       MR. ASHFORD: If you don't, David, I  
6           don't. So I have to -- I can ask for it.

7                       MR. ROBINSON: I know I don't have it.  
8           I have to inquire. It's the first time hearing about the  
9           picture that he took.

10                      MR. ASHFORD: I'll inquire and try to  
11           get it to you as soon as possible.

12 BY MR. ROBINSON (Continued):

13 Q.     And did you interview the officers at that time, that  
14           were at the scene?

15 A.     I don't believe I did.

16 Q.     What officers do you recall, if you do recall

17 A.     I know there was a white female. I think her last name  
18           was Sukey. And her partner was a white male also. His  
19           name was Palmer and then there were two black officers,  
20           Chuney and I can't remember who his partner was. I want  
21           to say his partner's name was Coleman.

22 Q.     And you say you don't recall whether or not you talked to  
23           them?

24 A.     I mean, briefly. I probably asked him what medic showed  
25           up on scene because there was no EMS truck .there so

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1 Commander Bettison had already gone to the hospital. And  
2 I probably asked what supervisor was handling this.  
3 Quick information stuff.

4 Q. Did you make notes?

5 A. I probably did, but I don't have the file so I don't  
6 know.

7 Q. But you would've kept your notes in the file, correct?

8 A. Yes.

9 Q. Now, it's my understanding that the accident actually  
10 happened about 2:30. Is that about accurate?

11 A. I don't know.

12 MR. ROBINSON: Can we mark this?

13 MR. ASHFORD: No. That's his copy.

14 And you don't have another copy of this,  
15 do you?

16 MR. ROBINSON: Why don't we mark the  
17 original and make copies and take the original and stick  
18 it back. Is this your personal copy?

19 THE WITNESS: Yes.

20 MR. ROBINSON: Let's make a copy of his,  
21 then, and we'll mark it.

22 MR. ASHFORD: All right. Let's take a  
23 break. Off the record.

24 (Recess taken.)

25 (Deposition Exhibit Number 1, Memo



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1                                   dated 1/22/08, was marked for  
2                                   identification.)

3                                   MR. ROBINSON: Back on the record.

4 BY MR. ROBINSON (Continued):

5 Q. Plaintiff's Exhibit Number 1, is that the document that  
6 represents your investigation into this matter?

7 A. Yes. One of the two.

8 Q. Okay. You've got another one?

9 A. I don't have it. But I did a misconduct report that  
10 would've been done after Commander Autrey was charged  
11 criminally by the prosecutor's office. There was a  
12 misconduct report that is done as well.

13 Q. The misconduct is as far as administrative, prosecuting  
14 administratively departmentally?

15 A. Yes.

16 Q. Is there a difference in any of the content between  
17 misconduct report versus the report that's marked as  
18 Exhibit 1?

19 A. Generally the misconduct report is a brief synopsis of  
20 the events that led up to the potential departmental  
21 charges that would've been pursued against Commander  
22 Autrey in relationship to this particular incident.

23 Q. Okay. Now, you did an Investigator's Report, which I  
24 have.

25                                   MR. ROBINSON: And we can mark that.

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1 (Deposition Exhibit Number 2,  
2 6/8/07 Investigator's Report, was  
3 marked for identification.)

4 A. Yes.

5 BY MR. ROBINSON (Continued):

6 Q. Okay. Now what is the purpose of an Investigator's  
7 Report?

8 A. It is the synopsis of the events -- of an incident that  
9 occurred wherein a named individual is being investigated  
10 in relationship to a crime that had happened and then  
11 this is presented to the prosecutor's office for criminal  
12 recommendation.

13 Q. Okay. Now, how many of those had you prepared prior to  
14 that time?

15 MR. ASHFORD: You want him to estimate?

16 MR. ROBINSON: Yes.

17 A. I can estimate. Maybe about 50.

18 BY MR. ROBINSON (Continued):

19 Q. And in terms of preparing an Investigator's Report, I  
20 assume that was no formal class or anything that you  
21 received at Internal Affairs? It was just going by what  
22 people had done previous?

23 A. Well, you take other individuals Investigator's Reports  
24 and you eventually develop your own design or style that  
25 you create, but it starts off with somebody else's.

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1 Q. Right. You had never gone to a formal training for  
2 preparing Investigator's Reports, correct?

3 A. No.

4 Q. Now, you got to the scene about 5:00 or 6:00. And I'm  
5 sorry. I was trying to refresh your recollection as to  
6 when it is the accident occurred. Does that in Exhibit 1  
7 help to refresh your recollection as to the time?

8 A. Well, based upon somebody -- individual officer CRISNET'S  
9 reports, I have one officer that says it came out  
10 somewhere about 2:15 a.m.

11 Q. And you arrived at 5:00 to 6:00 after getting a call from  
12 Stair?

13 A. Yes.

14 Q. Now, the fact that the accident involved Bettison, who  
15 was a commander, that is why it is that Internal Affairs  
16 got involved. Is my understanding correct on that?

17 A. No. You're incorrect.

18 Q. Tell me why that is.

19 A. If it involves a police officer department member, then  
20 we would respond out to it as well.

21 Q. And I apologize. And I didn't mean to limit it to  
22 Commander Bettison, the fact that a police officer was  
23 involved in an accident that is what would've given alert  
24 to Internal Affairs?

25 A. Yes.

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1 Q. Because if it had just had been me, you probably wouldn't  
2 have been called, right?

3 A. Well, if you had crashed into a police car and the  
4 officers had been injured, some facet of Internal  
5 Affairs, probably force investigation side, would've  
6 responded.

7 Q. But if I had ran into the pole like Bettison did, you  
8 wouldn't have been called?

9 A. No. I wouldn't have got woke up.

10 Q. You would have continued in your dream stage and would  
11 not have been interrupted.

12 Now, the alert team is designed to, I  
13 assume, get to the scene as quickly as possible given the  
14 sensitive nature of the circumstances, correct?

15 A. That's correct.

16 Q. So if this accident happened at 2:15, in your  
17 investigation, did you learn exactly who had been to the  
18 scene and what had taken place at the scene prior to your  
19 arrival?

20 A. Not at the time that I initially responded.

21 Q. But during the course of your investigation, you did, I  
22 take it, right?

23 A. Yes.

24 Q. Now, as I understand it, you tell me whether I'm wrong.  
25 Bettison has an accident. There's a female,

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1 African-American female that hears and sees the accident.

2 Is she still at the scene when you get there?

3 A. No.

4 Q. There's an EMS person that arrived at the accident scene,  
5 and, of course, he's no longer there when you get to the  
6 accident, correct?

7 A. That's correct.

8 Q. Before your arrival, it's my understanding that a person  
9 by the name of Sergeant Hayes came to the scene and  
10 observed Bettison with the EMS, observed the car and  
11 observed some empty Sutter Home alcohol bottles or wine  
12 bottles; is that accurate?

13 A. Yes.

14 Q. My understanding is that the officers that you mentioned,  
15 furthermore, Chuney, Palmer and Sukey, also had arrived  
16 at the scene for the purposes of cornering off traffic  
17 for all intents and purposes, correct?

18 A. Yes.

19 Q. And then there was an accident scene officer that also  
20 came to the scene; is that accurate?

21 A. Yes.

22 Q. By the time you got there, was that accident officer  
23 still there or was he gone?

24 A. I believe he was gone. I'm not for sure.

25 Q. Okay. So is it fair to say that this was a crime

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1 scene?

2 A. It should have been maintained as a crime scene.

3 Q. Why is that?

4 A. Well, due to the severity of the commander's -- Commander  
5 Bettison or Todd Bettison's injuries, it should have been  
6 labeled as a crime scene and fatal squad should have come  
7 out, secured the location and been in charge of that  
8 particular scene.

9 Q. Now, I got a question for you. You're familiar with the  
10 department manual, correct?

11 A. Yes.

12 Q. And when you talk about crime scenes, tell me more about  
13 that. You know, what's the purpose of a crime scene.

14 A. For the purposes of ... ?

15 Q. Preserving evidence.

16 A. Of preserving evidence and maintaining the integrity of  
17 the scene for whatever particular entity would be  
18 responsible for doing the investigation. Would be able  
19 to come in and do an accurate and thorough investigation.

20 Q. So in a crime scene, would you expect to see yellow tape,  
21 perhaps?

22 A. If available, yes.

23 Q. Would you expect to see the little yellow tepees that are  
24 used to designate where evidence is located, evidence of  
25 the crime is located, would you expect to see that?

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1 A. Yes.

2 Q. You know what I'm talking about?

3 A. If not, they would use something like a Styrofoam cup  
4 with a number on it or something to that effect.

5 Q. And the purpose is to do what?

6 A. To preserve the evidence.

7 Q. And you want to document where the evidence is for the  
8 purposes of making your case?

9 A. That's correct.

10 Q. For all intents and purposes?

11 A. Yes.

12 Q. You as an investigator, you would ultimately expect,  
13 would you not, the officer that has arrived at the  
14 scene -- and in this case you said the accident  
15 investigator. Does your report reflect his name?

16 A. Darryl Osborne.

17 Q. Darryl Osborne. Because this was his accident scene?

18 A. Well, he was just a traffic car. I don't know what his  
19 level of training would've been. I guess they brought  
20 him over from another district for the purposes of doing  
21 the accident report.

22 Q. Am I right that Commander Serda was there, your report  
23 reflects that, right?

24 A. Yes.

25 Q. Your report reflects that Osborne was there, correct?

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1 A. Yes.

2 Q. And your report reflects that Sergeant Hayes was there,  
3 correct?

4 A. Yes.

5 Q. So you had at least two supervisors and you had the  
6 accident investigator that was there prior to your  
7 arrival, correct?

8 A. Yes.

9 Q. And you said that it should've been treated like a crime  
10 scene but it wasn't, correct?

11 A. That's correct.

12 Q. And that would've fallen under the responsibility of  
13 either at least Commander -- Sergeant Hayes or Osborne;  
14 is that accurate?

15 A. I wouldn't put the onus on Osborne more so than the other  
16 commanders that were there.

17 Q. Now, apparently, not only Osborne did not treat it as a  
18 crime scene, but neither did Serda or Hayes?

19 A. Or Autrey.

20 Q. True. True. Right. And then, if I'm not mistaken, the  
21 officers that, you know, were there to redirect traffic  
22 or -- like Chuney, Coleman, I forget the other two.  
23 Chuney and Coleman?

24 A. Sukey and Palmer.

25 Q. Sukey and Palmer, the average police officer like those



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1 at the scene of a B & E, let's say if there is blood or  
2 something on the windowsill, he or she has to protect  
3 that contamination, correct?

4 A. Yes.

5 Q. So they had a duty to -- because that's what your  
6 training is in the academy when you go to the crime  
7 scene, you protect the scene, correct?

8 A. Preserve.

9 Q. Preserve the evidence. Now, was there anybody else at  
10 the scene that I'm missing that came before you?

11 A. That came before me?

12 Q. Yes.

13 A. If I could briefly, I could look and see if anyone else  
14 had showed up prior to.

15 Q. Go ahead.

16 A. I don't recall any other names, no.

17 Q. Now, does your report reflect the time line in terms of  
18 the folks arrival at the scene? We know the accident  
19 allegedly happened about 2:15, correct?

20 A. Yes.

21 Q. So who would've arrived at the scene first?

22 A. The first officers that were there were Officers Chuney  
23 and Coleman.

24 Well, actually, based upon my  
25 investigation, there were two other police officers that

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1 actually rode by the scene prior to it even becoming a  
2 9-1-1 call.

3 A. Okay.

4 Q. Okay, I read that, too. What are their names, if you  
5 recall?

6 A. Officers John Gardener and Jeremiah Durant.

7 Q. Let me back up for a second. Because when you got the  
8 assignment from Brian Stair, did he give you any specific  
9 directions other than, hey, let's go check it out?

10 A. No. That was it.

11 Q. At any point in time during your investigation, did you  
12 get any other directions from anybody?

13 A. No.

14 Q. Okay. So you got two police officers that passed by the  
15 scene. And I understand you presented a warrant to the  
16 prosecutor's office for something by virtue of the fact  
17 that they had just passed by, didn't stop and render help  
18 or something like that?

19 A. That's correct.

20 Q. What was the nature of that crime, that allegation?  
21 Neglect of duty?

22 A. Neglect of duty, I believe it was.

23 Q. Did you come up with that on your own or did you -- were  
24 you directed to investigate and write those guys up for  
25 that?

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1 A. I came up with it on my own during the course of my  
2 investigation.

3 Q. So Chune y and Coleman arrive and they get the run, right?  
4 They're dispatched?

5 A. Yes.

6 Q. Sukey and Palmer, did they come next?

7 A. I believe they said they arrived second.

8 I'm not for sure. I believe -- I know  
9 that Chune y and Coleman showed up first and I'm not for  
10 sure if the two other responding officers came and block  
11 off the intersection and then Sergeant Hayes. Or  
12 Sergeant Hayes and the other officers. If I had the  
13 CRISNET reports the CRISNET reports are more defined as  
14 far as their -- I'm sorry. The police reports are more  
15 defined as far as their arrival time.

16 Q. You mentioned CRISNET. Is that an acronym for  
17 something?

18 A. Yes. But I have no idea.

19 Q. Okay. It's my understanding that -- is it Deputy Chief  
20 Logan at the time?

21 A. Yes.

22 Q. Okay. He never went to the scene, but he went to the  
23 hospital?

24 A. That's correct.

25 Q. And he had gotten a call from Joyce Motley, from Eastern

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1 Operations, I think. Is that right?

2 A. Yes.

3 Q. And so by her direction he went directly to the hospital?

4 A. Yeah, yes. Because at the time each district had a  
5 deputy chief and two commanders and Deputy Chief Logan  
6 was Commander Bettison's, I believe, deputy chief.

7 Q. And as I understand it, Autrey went to the hospital too;  
8 is that correct?

9 A. Yes.

10 Q. And I further understand it that they met Commander Serda  
11 at the hospital?

12 A. Yes.

13 Q. And Serda left the hospital at the direction of Logan to  
14 go to the scene; is that -- do I have that right?

15 A. Yes.

16 Q. And when Serda went to the scene, he came back and told,  
17 did he not, what he saw at the scene, correct?

18 A. I'm sorry. Could you say that again?

19 Q. When Serda came back from the scene, he went back to the  
20 hospital, is that correct, and reported what he had seen  
21 at the scene?

22 A. That's correct.

23 Q. And he reported to Logan the damage to the car and he  
24 reported the fact that he had seen some empty wine  
25 bottles, correct?

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1 A. He notified Deputy Chief Logan and Commander Autrey about  
2 his observations.

3 Q. About the wine bottles and that stuff?

4 A. Yes.

5 Q. Now, let me ask you this question: Evidence technicians,  
6 what are the purpose of evidence technicians?

7 A. To collect and document evidence.

8 Q. And evidence technicians would have done the things that  
9 I made reference to earlier. If they had the yellow  
10 tape, they would fork off the area?

11 A. Yes.

12 Q. If they had those yellow cones, they would put those down  
13 where the evidence was, correct?

14 A. That's correct.

15 Q. And that would give notice to anybody else that came  
16 there that it was a crime scene, correct?

17 A. Yes.

18 Q. And Commander Serda did not order the evidence techs,  
19 apparently, when he came out and saw the wine bottles,  
20 correct?

21 A. To my knowledge, I don't believe he did. Because they  
22 never showed. Or I have no documentation to say that he  
23 had called them.

24 Q. But to do so you order the evidence techs right away,  
25 correct, as soon as possible?

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1 A. Yes.

2 Q. So they can get to the scene and they can protect the  
3 evidence, right?

4 A. That's correct.

5 Q. And make it an official crime scene, correct?

6 A. Yes.

7 Q. Now, Hayes, as I understand it, was the first supervisor  
8 to arrive, correct?

9 A. Yes.

10 Q. And I think you said the onus would've fallen on Hayes or  
11 Serda to make it a crime scene and not Osborne who was  
12 the accident investigator, correct?

13 A. Well, Commander Autrey was there, too. He could've made  
14 that call as well.

15 Q. Well, back up. We're not there yet. Let me work through  
16 this. Because I really need a time line. That's what  
17 I'm trying to establish.

18 Sergeant Hayes, again, if he's the first  
19 supervisor to the scene, then he takes charge of  
20 everything over the police officers?

21 A. That's correct.

22 Q. So Hayes also noted in his information -- and I believe  
23 he made a report, but it wasn't a report that day, it was  
24 a report that was made some five days later or something  
25 like that -- that he had seen wine bottles himself; is

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1           that correct?

2     A.     That's correct.

3     Q.     And it is his individual supervisor responsibility to  
4           come and take over the scene and do whatever is necessary  
5           to protect evidence, correct?

6     A.     Yes.

7     Q.     And so Hayes never called for any evidence technicians as  
8           you understand it, correct?

9     A.     Not to my knowledge, no.

10    Q.     Hayes never walked and preserved those evidence bottles,  
11          he didn't put them on evidence themselves, correct?

12    A.     No.

13    Q.     Serda didn't do it either?

14    A.     No, he didn't.

15    Q.     Police officers didn't do it either?

16    A.     No.

17    Q.     Now, police officers, whether evidence technicians or  
18          not, come, they're still supposed to pick up the evidence  
19          and take it to the station and put it on the evidence,  
20          correct?

21    A.     Yes.

22    Q.     You have done that as a police officer plenty of times,  
23          haven't you?

24    A.     Yes.

25    Q.     All right. So now, Serda goes back and he reports to

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1 Logan what his findings were, correct?

2 A. I don't know if he actually went back or talked to him  
3 via telephone.

4 Q. But he reported what he saw?

5 A. Yes.

6 Q. Including the wine bottles?

7 A. Yes.

8 Q. Logan didn't give Serda any direction, "Go make that a  
9 crime scene, because we got to preserve the evidence."

10 Correct? Logan didn't tell them that,  
11 right?

12 A. I know he did -- there was some discussion with Deputy  
13 Chief Logan as to -- he didn't make any determination as  
14 to it was or was not a crime scene.

15 Q. And the highest ranking supervisor executive there  
16 would've been Logan, correct?

17 A. At the scene or at the hospital?

18 Q. Not at the scene, but at the hospital. Logan was the one  
19 that was reporting back to people above him what was  
20 going on. Right?

21 MR. ASHFORD: Do you know that? If you  
22 don't.

23 A. I can't really ... .

24 BY MR. ROBINSON (Continued):

25 Q. You would assume that, though, right. I mean, Deputy



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1 Chief Motley called him so he's got to report back to her  
2 or report back to notification and control, right? Got  
3 to tell somebody what is going on?

4 A. Well, I would say notifications do go up. Now, if they  
5 were adhered to, I can't say.

6 Q. Because there was really no documentation for that, as I  
7 understand it, because there was no calls to notification  
8 and control because those calls are record and you didn't  
9 find any of those calls that were recorded that had  
10 notification and control, correct? You can answer that.

11 MR. ASHFORD: If you know.

12 A. I had obtained the telephone conversations from  
13 communications, notification and control, in relationship  
14 to this incident.

15 BY MR. ROBINSON (Continued):

16 Q. And those are still in the file, then, right?

17 A. (No response.)

18 Q. Should be?

19 A. Should be.

20 Q. And what did you hear in those?

21 A. I know I heard Sergeant Hayes talking to one of the  
22 sergeants at communications but he was told not to do  
23 certain -- not to make certain calls. I can't recall all  
24 of them.

25 MR. ROBINSON: I need those calls.

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1 MR. ASHFORD: They're in the file.

2 MR. ROBINSON: I'm sorry?

3 MR. ASHFORD: They're in the file that I  
4 provided.

5 MR. ROBINSON: Were they on discs?

6 MR. ASHFORD: That's been a while.

7 Didn't I provide you with the IA file?

8 MR. ROBINSON: You've got the IA file  
9 and all I've got --

10 MR. ASHFORD: Can we go off the record?

11 MR. ROBINSON: Sure.

12 (Discussion off the record.)

13 MR. ROBINSON: Back on the record.

14 BY MR. ROBINSON (Continued):

15 Q. Now, you had said that Hayes called notification and  
16 controls, Hayes?

17 A. Yes.

18 Q. And you talked to somebody at communication and a  
19 sergeant at communication?

20 A. His name was Sergeant Joe Howard. He has a real strange  
21 voice.

22 Q. And Joe Howard told him not to do certain things?

23 A. No. Sergeant Howard was asking him for information in  
24 regard to the incident and Sergeant Hayes was not to --  
25 he didn't give him -- there was a conversation that

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1 sounds like he shouldn't make notifications.

2 Q. That Howard should not make notifications?

3 A. That he -- something to the effect that certain  
4 notifications don't need to be made.

5 Q. That's what you heard Hayes tell Howard?

6 A. That's what I can recall.

7 Q. That's what you can recall?

8 A. Yes.

9 Q. Were there any other calls that were made to notification  
10 and control?

11 A. I have copies of all the 9-1-1 transmissions of people  
12 calling 9-1-1. I have the communications for dispatching  
13 runs, dispatching the police runs to their location.

14 MR. ROBINSON: You know, I don't have  
15 those.

16 MR. ASHFORD: Are these all on CDs?

17 THE WITNESS: They should be. I think  
18 they all are.

19 BY MR. ROBINSON (Continued):

20 Q. Okay. Anything else?

21 A. I can't recall anything else right now. But any radio  
22 traffic in relationship to this, I have. Well, I  
23 obtained.

24 Q. Now, you didn't hear any notifications from Logan to  
25 notification and control, right?

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1 A. No.

2 Q. Not from Serda to notification and control, right?

3 A. No.

4 Q. Now, it's my understanding that Commander Autrey was  
5 off-duty. We talked about that before. I mean, he was  
6 called in?

7 A. I believe he was.

8 Q. Now, similar to you, on the alert team, although, you  
9 know, he's not a member of the alert team, he was called.  
10 He didn't just pop in out of thin air, as I understand  
11 it?

12 A. I don't know.

13 Q. That's what I believe I read in your report that he was  
14 called. He got a call and that's how he learned about it  
15 in the first place.

16 Do your records reflect the time that  
17 Commander Autrey left the hospital to go to the scene?

18 A. I don't believe that it does. Let me check.

19 Yes. Commander Autrey sent an  
20 interoffice memorandum to Commander Stair indicating that  
21 he arrived at approximately 4:30. At approximately 4:30  
22 he responded to a traffic accident involving Commander  
23 Bettison at Seymore and Hayes.

24 Q. And your call from Brian Stair came, I think you said,  
25 about 5:00?

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1 A. Between five -- I said between 5:00 and 6:00, but looking  
2 at my report it says 5:00 a.m.

3 Q. 5:00 a.m. So Autrey left the scene at -- I'm sorry.  
4 Left the hospital about 4:30, correct?

5 A. He responded to the traffic accident at Seymore and Hayes  
6 at 4:30.

7 Q. So by that time you hadn't even been called yet?

8 A. No.

9 Q. And the call to notification and control from Sergeant  
10 Hayes, do you remember what time that was?

11 A. No. But the tape's time stamped. I don't know.

12 Q. Okay. And we can check that out when we get it?

13 A. Yes.

14 Q. But again, Sergeant Hayes as opposed to Serda, as opposed  
15 to Logan nobody of those supervisory ranks called  
16 notification and control, correct?

17 A. I don't have any conversation of them calling.

18 Q. Now, let me ask you a question. Notification and  
19 control, the purpose of that is to have a central  
20 depository conduit, as it were, for sensitive information  
21 to be received and then channeled to higher ups in the  
22 police department when it comes to perfluous incidents or  
23 in incidents of a sensitive nature, correct? I mean,  
24 that's not their only function?

25 A. That's part of their function.

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1 Q. And that's a significant part of their function, correct?

2 A. Yes.

3 Q. And the manual even speaks to that, does it not?

4 A. Yes, it does.

5 Q. And it would have directed Logan, as a deputy chief to  
6 make notification, notification and control, the manual.

7 Because he's subject to the provision in the manual as  
8 well?

9 A. That's correct.

10 Q. So is Serda, correct?

11 A. Yes.

12 Q. So, now let me just mark this provision here and I'm  
13 going to ask whether or not you can identify that.

14 (Deposition Exhibit Number 3,  
15 Detroit Police Web Manual, was  
16 marked for identification.)

17 BY MR. ROBINSON (Continued):

18 Q. I'm marking as my Exhibit Number 3, a provision from the  
19 Detroit Police Department manual.

20 Do you recognize that as part of the  
21 manual that gives direction and specification to officers  
22 of the Detroit Police Department concerning  
23 responsibilities at crime scenes?

24 A. Yes.

25 Q. Now, as I understand it, this was a review date and

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1 effective date of May 2nd, 2005 and a review date of May  
2 2nd, 2006. This accident happened May -- I'm sorry. In  
3 April of 2007. Is it fair to say what was marked here as  
4 Exhibit 3 would have been the relevant provisions at the  
5 time?

6 A. It may have. I can't say that.

7 Q. Now, as I understand it, there is a direction here that,  
8 let's say, at 203.1 dash 3.1, "The perimeter or border  
9 surrounding potential physical evidence related to the  
10 crime. Crime scene boundaries should be defined to  
11 include all areas that may be reasonably searched for  
12 evidence."

13 Remember I talked about yellow tape?

14 A. Yes.

15 Q. That is probably consistent with that, right? To mark it  
16 so that evidence is preserved to keep public traffic or  
17 police officers from screwing up the evidence, right?

18 A. If available, yes.

19 Q. And if it's not available, it has to be some other way to  
20 accomplish that goal in order to protect the evidence,  
21 correct?

22 A. That's correct.

23 Q. And it would be visible and obvious to anybody that  
24 showed up to that scene so they know not to, in a  
25 figurative sense, cross that line, correct?

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1 A. That's correct.

2 Q. And that's the whole purpose of the yellow tape, you  
3 know, or its equivalent. So that somebody doesn't cross  
4 the line and then destroy the evidence, correct?

5 A. That's correct.

6 Q. And it says, "Initial Response to Crime Scenes."

7 And I'm reading from page three,  
8 203.1 dash 4.1, "General."

9 "Approach the scene in a manner designed  
10 to reduce potential harm that to officers, while  
11 maximizing the safety of victims, witnesses, and others  
12 in the area. In transit to crime scenes, officers should  
13 be aware of suspects and/or vehicles that may be leaving;  
14 remain alert and attentive. Assume the crime is ongoing  
15 until determined to be otherwise."

16 And that's until the scene is released,  
17 right?

18 A. Yes.

19 Q. "Responding officers --" and I'm reading from 203 dash 50  
20 "General Crime Scene Preservation."

21 "Responding officers shall enter crime  
22 scenes only for the purposes of aiding the injured,  
23 apprehending perpetrators or securing the area. Other  
24 entries shall be permitted only under the direction of a  
25 supervisor or investigator in charge of the scene.



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1           Officers making entries for these purposes shall, where  
2           feasible, avoid touching, walking upon, moving objects,  
3           altering or otherwise contaminating the crime scene."

4                               That's what you recall from this  
5           provision, correct?

6    A.     Yes. It is in that provision.

7    Q.     "Extreme care."

8                               And I'm reading from paragraph four now.

9                               "Extreme care shall be taken to prevent  
10          the destruction of any item with evidentiary value. No  
11          search beyond that, which is necessary to locate victims,  
12          perpetrators or witnesses shall be conducted unless  
13          authorized by the patrol supervisor investigator in  
14          charge of the case. Crime scenes shall not be abandoned,  
15          unless directed by proper authority."

16                              You recall that provision?

17   A.     May I look at it?

18   Q.     Sure.

19   A.     What section were you referring to?

20   Q.     Four. Paragraph four.

21   A.     There is no four on this page.

22                              Oh, I'm sorry.

23   A.     Yes. That's what this paper says.

24   Q.     Now, "Crime Scene Boundaries. "A", Considering the  
25          nature and seriousness of the crime, officers should, as

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1           necessary, request backup assistance to resist areas to  
2           the crime scene and control any on-lookers. "B", erect  
3           barricade tape or otherwise secure the immediate crime  
4           scene."

5                               Now, that's what I was talking about in  
6           terms of that yellow tape stuff.

7                               "Record any alterations made at the  
8           crime scene due to emergency assistance. Boundaries  
9           should be established extending outward from the focal  
10          point or where the crime occurred and include the  
11          potential points and paths of exit and entry of suspects  
12          and witnesses."

13    A.     That's correct.

14    Q.     Now, I'm going to say -- I'm going to read 203.1 dash  
15          5.4, "Collection of Evidence".

16                           MR. ASHFORD: David, are you asking him  
17          a question from those?

18                           MR. ROBINSON: I'm reading and following  
19          up with is that consistent with your understanding.

20    BY MR. ROBINSON (Continued):

21    Q.     "Unless exigent circumstances exist, or the authorization  
22          of a supervisory officer received, initial responding  
23          officers at serious crime scenes shall not engage in  
24          collection of items of potential evidentiary value.

25                           "In the event evidence must be collected

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1 by responding officers to prevent its loss or  
2 destruction, the evidence shall not be returned to the  
3 scene for collection by evidence technicians. The  
4 confiscating officer is responsible for the proper  
5 recording and processing of any evidence that he or she  
6 removed from the scene.

7 "If authorized, responding officers  
8 shall only search the crime scene, in a manner and method  
9 prescribed by a supervisor or the investigator in charge  
10 of the scene, for any items that may be establish how the  
11 crime was committed or committed the crime, this may  
12 include but not be limited to --"

13 And it gives a litany of items --  
14 weapons, firearms, evidence, tools, vehicles, et cetera,  
15 et cetera.

16 So evidence should have been collected  
17 from the supervisors that arrived at the scene according  
18 to what I'm reading here?

19 A. That's correct.

20 Q. Not necessarily the arriving -- initial officers  
21 arriving. Now, none of that occurred in this case,  
22 right?

23 There was no tape to do exactly what  
24 this provision says, to set up boundaries to protect the  
25 evidence, the crime scene, correct?

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1 A. Well, just like I said earlier, when I had arrived, the  
2 tow truck was getting ready to take the vehicle. So it  
3 may have been up and they had taken it down. I don't  
4 know. I didn't see any evidence of it.

5 Q. Right. Right. Right. You didn't see any evidence of  
6 it?

7 A. That's correct.

8 Q. And from 2:15 to your arrival at 5:00, did your  
9 investigation determine whether or not those things had  
10 been done to establish that as a crime scene?

11 A. No.

12 Q. And as a technical matter, when you arrived, the police  
13 officers were still on the scene, correct?

14 A. Yes. Well, not all of them. The initial responding  
15 officers and then a second unit had blocked the  
16 intersection.

17 Q. Now, when you got the call from Stair, you didn't tell  
18 Stair back -- to call back and tell Stair, "Hey, it's a  
19 crime scene. Make sure somebody's out there, evidence  
20 technicians or somebody to preserve that scene." You  
21 didn't do that, right?

22 A. I didn't. Other than the Sutter Homes bottle in the back  
23 of the vehicle, I had seen no other -- nothing else  
24 that --

25 Q. I'm talking about before you got there.

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1 A. Well, I would've assumed that it would've been handled  
2 properly before I got there.

3 Q. Okay. And assume, by the people that we already talked  
4 about, the first person that got to the scene was  
5 Sergeant Hayes; is that right?

6 A. Yes. For a supervisor.

7 Q. First supervisor. And we know what his responsibility is  
8 because we just read it. And the provision, he's a  
9 supervisor. He takes charge of the scene and does what  
10 he's supposed to do to preserve the crime scene, correct?

11 A. That's correct.

12 Q. Unless he does not determine it to be a crime scene by  
13 his own supervisory discretionary call, correct?

14 A. I would say yes.

15 Q. Same as commander, Serda. It's his responsibility to  
16 treat it as a crime scene unless he determined in his own  
17 supervisory discretion that it isn't a crime scene,  
18 correct?

19 A. Yes.

20 Q. Now, Serda had been to the hospital. Serda observed, I  
21 presume, Todd Bettison. Serda certainly talked to Logan  
22 and to Autrey?

23 MR. ASHFORD: I'll object to the form.  
24 Compound.

25

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1 BY MR. ROBINSON (Continued):

2 Q. We presume that, right? Because they were -- Autrey and  
3 Logan were at the hospital with Serda, correct?

4 MR. ASHFORD: Same objection. Compound.  
5 You can answer.

6 BY MR. ROBINSON (Continued):

7 Q. That's what your investigation has disclosed?

8 A. Yes.

9 Q. And even with all that he goes to the scene and he still  
10 doesn't, you know, exercise discretion other than to say,  
11 oh, must not be a crime scene, correct?

12 A. Well, he documented it in some form that he did  
13 observe --

14 Q. Wine bottles?

15 A. Wine bottles.

16 Q. But he didn't do anything else?

17 A. No.

18 Q. Big deal, empty wine bottles.

19 A. No.

20 Q. He didn't document the fact that there were, along with  
21 the empty wine bottles, a car seat in Bettison's car,  
22 correct? He didn't document that anywhere?

23 A. Who didn't?

24 Q. Serda.

25 A. Not to my knowledge, no.

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1 Q. He didn't document that there was also a container of  
2 food or empty container of food in Bettison's car,  
3 correct?

4 A. No. Not to my knowledge.

5 Q. So, okay, now, timewise, 4:30, does Serda's report to you  
6 reflect what time he went out and what time he either  
7 went back to the hospital or called back to talk to  
8 Logan?

9 A. I do not believe that -- oh, one moment. Let me check.

10 Only thing it indicates is that he had  
11 received a phone call from a Lieutenant Gasper Rossi at  
12 2:35 a.m., but it doesn't indicate the time that he  
13 actually arrived on the scene, went to the hospital and  
14 then returned back to the scene.

15 Q. Okay. Now, it's my understanding that Mr. Autrey, and  
16 according to his report, didn't go until 4:30. So Autrey  
17 didn't go until after Serda had either come back and  
18 informed them, both of them, what he had seen?

19 A. Based upon his written statement.

20 Q. So when Autrey goes out, Autrey sees for all intents and  
21 purposes the same thing that you saw; that is no crime  
22 scene? Because you didn't see a crime scene, correct?

23 A. That's correct.

24 Q. And so it's my understanding that Autrey retrieves and  
25 made a statement either of his own or as ordered as to

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1 his role at the scene, correct?

2 A. I'm sorry. Could you repeat that?

3 Q. Autrey made a statement. He made a direct -- a memo to  
4 Stair, Brian Stair, correct?

5 A. Yes.

6 Q. And he was either ordered to do so or he did so  
7 voluntarily on his own, correct?

8 A. Yes.

9 Q. And in Autrey's statement, Autrey indicates that he left  
10 the hospital and then went to the scene and he collected  
11 certain items, correct?

12 A. Yes.

13 Q. He collected a car seat that was in Bettison's car,  
14 correct?

15 A. Yes.

16 Q. He collected what he calls garbage, which would've  
17 included the empty wine bottles and food container,  
18 correct?

19 A. Yes.

20 Q. Then he indicated to Stair what he did with those items  
21 and where he went with them. And is it correct that he  
22 said he went directly from the accident scene with those  
23 items to the Northeastern District police station?

24 A. That's correct.

25 Q. Now, did they have cameras that monitor the precincts at



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1 Northeastern District, like on the outside parking lot  
2 and stuff like that? I'm pretty sure they do.

3 A. Yes. If they're functioning.

4 Q. Did you determine whether or not they were functioning in  
5 your investigation?

6 A. No.

7 Q. And that would have revealed the actions, presumably, of  
8 Commander Autrey in taking the car seat out of the car  
9 and then disposing of the wine bottles, which were empty,  
10 and the food container, correct? Or did you check into  
11 that?

12 A. Well, looking over at the Northeastern District, the  
13 cameras don't face the garbage receptacles on the outside  
14 of the building. So if he had went over to the  
15 Northeastern District, I couldn't have told what kind of  
16 car he had just by him pulling up into the lot. Because  
17 the cameras don't --

18 Q. Is that something you investigated? Though, I guess,  
19 that's my question.

20 A. Yes. In regards to the angles of the cameras. I mean,  
21 I've been over to the Northeastern District on several  
22 occasions so I know --

23 Q. But relative to your investigation, that's not anything  
24 that you considered?

25 A. No, I didn't.

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1 Q. All right. And so now, between -- did you find out the  
2 route that Autrey took from the accident scene back to  
3 the precinct?

4 A. Nope.

5 Q. Is it fair to say that it just, you know, more likely  
6 than not there are plenty of places that he could have  
7 thrown away the wine bottles before he got to the  
8 precinct?

9 A. I'm sure.

10 Q. But he didn't do that your investigation disclosed,  
11 correct?

12 A. My investigation is closed.

13 Q. Right. But I'm sorry, my question was your investigation  
14 did not disclose that Autrey stopped somewhere, tossed  
15 the bottles in some sort of garbage dump before he got to  
16 the place where there would be cameras, so to speak?

17 A. I can't really --

18 MR. ASHFORD: I'm going object to that  
19 as a form. Go ahead.

20 A. I can't really answer that question because I didn't have  
21 an opportunity to interview Commander Autrey under the  
22 provisions of Garrity, which I would have addressed that  
23 at that point.

24 BY MR. ROBINSON (Continued):

25 Q. Did you ask Autrey to make a statement?

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1 A. No, I didn't.

2 Q. And you had every right to, right? Because he could've  
3 waived his Fifth Amendment right, couldn't he? And as an  
4 investigator aren't you actually, obligated to do that?

5 A. Well, actually, I asked Commander Stair. I need  
6 statements from all the bosses that were involved in this  
7 and they provided him the interoffice memorandums.

8 Q. Now, let me back you up, now. Because if he did an  
9 interoffice memorandum, then he made a statement?

10 A. For all intents and purposes.

11 Q. And he had a Fifth Amendment, right?

12 A. Yes.

13 Q. So he didn't waive his Fifth Amendment. You didn't ask  
14 him, "Listen, John what route did you take from Seymore  
15 and Hayes back to the precinct?"

16 You didn't do that, right?

17 A. No, I did not.

18 Q. You didn't say, "John, here's your Constitutional rights  
19 form. I'm going to read you your rights. You have the  
20 right to remain silent. Anything you say can and will be  
21 used against you. The right to an attorney. If you  
22 can't afford one, we're going to get you one."

23 Well, not you. But you didn't do all  
24 that?

25 A. No, sir, I did not.

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1 Q. You could've done that, right?

2 A. Yes.

3 Q. So John did not waive his Fifth Amendment right to tell  
4 you or anybody else if he had been asked, like he was  
5 asked at least when he wrote his statement to Stair.  
6 because under the law, under the Constitution, he didn't  
7 even have to do that. Right?

8 A. That's correct.

9 Q. And you weren't going to offer him Garrity. Because, if  
10 you offered him Garrity, then you couldn't prosecute him,  
11 right?

12 A. That's correct.

13 Q. So the design was to do what, to prosecute John Autrey,  
14 correct? That's what your intent was?

15 A. No. My intent was to see if any criminal activity had  
16 happened and then present the information to the  
17 prosecutor's office for warrant of criminal prosecution.

18 Q. I think we're saying the same thing. We're just saying  
19 it different?

20 MR. ASHFORD: I like his version.

21 BY MR. ROBINSON (Continued):

22 Q. You could've offered him Garrity, right?

23 A. I'm sorry?

24 Q. You could've offered him Garrity. Correct?

25 A. Not at this, point, no.

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1 Q. You're the officer in charge of this case?

2 A. Not at this point.

3 Q. Could you have told, "Stair, listen, I want him to be  
4 Garrited"? Could you have done that?

5 A. I don't know. Because the initial IA investigations are  
6 of a criminal nature first and departmental investigation  
7 second. So we look for criminal negligence first. So I  
8 have to handle it in a criminal aspect. If I would have  
9 provided him Garrity and he would have came to me and  
10 said something of a criminal nature related to this, as  
11 you know, I could not have prosecuted him for that  
12 action.

13 Q. I don't believe -- and I'm not arguing with you. But I  
14 don't believe that it's mandatory that you under any set  
15 of facts have to -- have to presume that a crime was  
16 committed in your investigation. You can exercise  
17 discretion and say it doesn't arise to this and I'm just  
18 going to Garrity him.

19 Did you have supervisors if you had a  
20 question that you could go to and ask?

21 MR. ASHFORD: Objection as to form.

22 BY MR. ROBINSON (Continued):

23 Q. Yes or no?

24 A. Yes.

25 Q. But you didn't do that in this case, correct?

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1 A. No, I didn't.

2 Q. Now, you did the investigative report. We had marked  
3 that as Exhibit 3. Now, that's dated June of '07,  
4 correct?

5 A. That's correct.

6 Q. By that time, I'm assuming, that you had done all your  
7 Garrity interviews, correct?

8 A. Yes.

9 Q. You had completed your investigation --

10 A. No. I had not completed the investigation.

11 Q. The criminal investigation?

12 A. Actually, the reason why it was dated June 8th and it  
13 says amended across the top is the initial Investigator's  
14 Report had everybody's name on it and it was -- I think  
15 the prosecutor's office asked me to separate each  
16 individual's issue. That means I had to do a separate  
17 Investigator's Report for Commander Autrey, a separate  
18 Investigator's Report for Commander Bettison and then a  
19 separate Investigator's Report for the two officers.

20 MR. ASHFORD: What two officers?

21 THE WITNESS: John Gardener and Jeremiah  
22 Durant.

23 BY MR. ROBINSON (Continued):

24 Q. So is that Investigator's Report still in your file, that  
25 you know of? The other Investigator's Report?

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1 A. I don't know.

2 Q. And what date -- was there an Investigator's Report --  
3 you just made reference that you had done that had  
4 everybody on it, what date was on that?

5 A. I have no idea.

6 Q. But it was prior to that?

7 A. Yes.

8 Q. Okay. So by that time, I guess the question is, was your  
9 investigation completed or not?

10 A. The administrative portion or criminal?

11 Q. No. The criminal part.

12 A. When the warrants or Investigator's Reports were  
13 submitted to the prosecutor's office, all my criminal  
14 investigation had been concluded, yes.

15 Q. Now, how did that warrant request get to the  
16 prosecutor?

17 A. I physically took it over to the prosecutor's office.

18 Q. And you talked about a package earlier, right?

19 A. Yes.

20 Q. So in the packet it would have been that Investigator's  
21 Report, right?

22 A. Yes.

23 Q. And it would have been the PCRs or the CRISNET reports?

24 A. Yes.

25 Q. And what else?

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1 A. The copies of the Garrity interviews with the witness  
2 officers, the interoffice memorandum that was prepared by  
3 commander, former Commander Autrey, the accident report  
4 and whatever relative information regarding this matter  
5 would've been in the report. I just can't remember  
6 everything.

7 Q. Okay. Now, what happened when you went over there? When  
8 you presented the packet?

9 A. I presented the packet to assistant prosecuting attorney  
10 Ronald Donaldson and he started reviewing it. Going over  
11 the information that was in there and he might have asked  
12 me to do a couple of other things in regards to some  
13 other information. I can't recall. And at some point or  
14 another he recommended charges.

15 Q. When would he have recommended charges relative to when  
16 you went over there?

17 A. I'm sorry?

18 Q. Does your -- do your notes reflect when it is you went  
19 over there, versus when it is he recommended charges?

20 A. Well, the date that is on there is when the  
21 investigator's report was actually taken to the  
22 prosecutor's office.

23 Q. So that would be June '07, June 8, '07?

24 A. Yes. And he signed the Investigator's Report on the 11th  
25 of June.



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1 Q. June 11th. Now, would your notes reflect the things that  
2 he did? Let's say your case supervision notes would they  
3 reflect the things that the prosecutor wanted you to  
4 do?

5 A. If there was some additional stuff that he had wanted, he  
6 generally gives me a little sheet to tell what additional  
7 information, if in this particular matter, he needed some  
8 additional information.

9 Q. And you had put that in the file, right?

10 A. Yes.

11 Q. Now, you don't recall what it is that he wanted you to  
12 do, but there was a couple of things he said he did want  
13 you to do, right?

14 A. I can't remember exactly what it was. Generally, when I  
15 submit an Investigator's Report it is something minute.  
16 I need an additional address or phone number for a  
17 witness or something to that effect. It's not to the  
18 extent I got to do an entire investigation.

19 Q. Now, I'm assuming -- how long did this meeting take?

20 A. Oh, I don't know. Usually I'm over at his office 20  
21 minutes at the most. For the first 15 we're talking.

22 Q. And you're reviewing the file all along?

23 A. Yes.

24 Q. For the most part, right?

25 A. Yes.

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1 Q. Now, is there anything else in the file that I'm missing?  
2 CRISNET, Garrity, what else?

3 A. I don't think I had any witness statements in  
4 relationship to this because I couldn't find the lady  
5 that was there. A witness list, I'm assume that I had to  
6 give Commander Autrey's constitutional rights. That  
7 should've been in the packet. I don't even think I even  
8 gave him his constitutional rights then. Because I don't  
9 see -- admissions and confessions on there is none. So  
10 that might not have been in the package. And this  
11 Investigator's Report.

12 Q. And is that what we have marked as Exhibit 1,  
13 Investigator's Report?

14 A. I don't see a number on here.

15 Q. We marked as Exhibit 1, this Interoffice Memorandum,  
16 Exhibit 1, did he have that?

17 A. Did who?

18 Q. In your packet?

19 A. The prosecutor?

20 Q. Yes.

21 A. No.

22 Q. He never had this?

23 A. No.

24 Q. He didn't get this?

25 A. No.

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1 Q. He got the Garrity, he got the CRISNET, he got a witness  
2 list and the Investigator's Report. So he got four  
3 things?

4 A. I think that's all. I think that's all I presented him.  
5 I don't have the package to tell you. So I think that's  
6 all I presented to you.

7 Q. This never goes. This, meaning Plaintiff's Exhibit  
8 Number 1, which is your investigation, that never goes  
9 with the packet, right?

10 A. That's correct.

11 Q. And in your investigator's report, the Garrity interviews  
12 that he had, were they on tape or were they  
13 transcribed?

14 A. Tape.

15 Q. Okay. Now, you did not, you said that about 20 minutes  
16 on the average that you're there with him, right?

17 A. Yes.

18 Q. And you don't ever talk to him after that unless there's  
19 a warrant and then you go to go to court, right?

20 A. Well, if there is something else that he would need, he  
21 would call me, but I don't know if he did on this  
22 particular matter.

23 Q. And now with regard to, let's say, Plaintiff's Exhibit  
24 Number 3, crime scene investigation, you didn't provide  
25 him with a copy of that, right? That was not in your

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1 investigation package?

2 A. I believe he has a copy of our manual.

3 Q. Okay. Now, you're guessing?

4 A. I didn't provide him a copy, no.

5 Q. You didn't provide it?

6 A. No.

7 Q. That wasn't in the package?

8 A. No, it was not.

9 Q. And you didn't call him and tell him that, you know what,  
10 there was no crime scene that had been marked off,  
11 correct?

12 A. No, I didn't.

13 Q. You didn't tell him that the crime scene should have been  
14 designated as such by the supervisors that first arrived  
15 at the scene, correct?

16 A. I'm sorry, what?

17 Q. You didn't tell Donaldson that the crime scene should've  
18 been designated as such by the initial supervisors  
19 arriving at the scene? We talked about that earlier?

20 A. Oh, no. I didn't discuss any of that with him, no.

21 Q. Now, Plaintiff's Exhibit Number 3, we read through this  
22 and I will start just at the last two sentences.

23 "Witness number one --" and that witness  
24 number one would be Officer Carl Chunev.

25 "Gave the wine bottle he retrieved from

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1           inside the vehicle to the defendant. Witness number two  
2           and number three (sic) observed the defendant place all  
3           empty bottles into a plastic bag and place the plastic  
4           bag inside the vehicle. The defendant later went to  
5           Northeastern District station where he later disposed of  
6           the wine bottles in a garbage dumpster."

7                               Now, there's nothing in your  
8           Investigator's Report that, number one, says that  
9           Commander Autrey also retrieved a food container and  
10          threw it away as well, right?

11    A.    It says it right here it was part of the evidence for him  
12          to review, the interoffice memorandum prepared by  
13          Commander Autrey and that's contained in the interoffice  
14          memorandum.

15    Q.    But I'm not asking you that. I'm asking in your writeup  
16          it doesn't say anything about that, correct?

17    A.    Specifically, no. But the evidence was provided that has  
18          that in it.

19    Q.    Nor does it say anything about the car seat either, does  
20          it?

21    A.    No, it doesn't.

22    Q.    Now, as I understand it -- and I'm going to go by the old  
23          Green Monster here, because when I was a cop that's what  
24          we had to study for the exam. And I'm just going to ask  
25          whether or not you agree or disagree with this statement.

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1 Okay.

2 "Role of reason, although the  
3 investigator's basically a collector of facts, he must  
4 also construct hypotheses and draw conclusions relating  
5 to the problem of who committed the crime and how it was  
6 committed." And how it was accomplished, rather.

7 Do you agree with that?

8 A. Yes.

9 Q. Do you also agree with the fact that your job is to not  
10 just determine guilt, but innocence?

11 A. Absolutely.

12 Q. And to provide the prosecutor with both sides of the  
13 issue, even up to and including calling the prosecutor up  
14 and telling him, hey, the crime scene wasn't a crime  
15 scene officially, there was never a crime scene? You  
16 never told the prosecutor that, right?

17 MR. ASHFORD: I'm going object to form.  
18 I'm going to object to form. Compound question.

19 BY MR. ROBINSON (Continued):

20 Q. You never told the prosecutor it was never a crime scene,  
21 correct?

22 A. No, I did not.

23 Q. Now, at the time that Commander Autrey was at the  
24 hospital and before he went to the scene, it's my  
25 understanding that it was never even determined that

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1 Commander Bettison had a blood alcohol level. It was  
2 never determined?

3 A. Could you --

4 Q. It was never determined prior to Commander Autrey going  
5 to the scene that Commander Bettison had a blood alcohol  
6 level? Did your investigation disclose that?

7 A. That -- he did have a blood alcohol level. I don't  
8 understand what you're referring to.

9 Q. Right. In your investigation that was turned in, it says  
10 it was later discovered that Commander Bettison's blood  
11 alcohol level was .22. It was later discovered?

12 A. That night. Or that morning.

13 Q. When? Do you know?

14 A. I think I got to the hospital -- I served him with a  
15 investigator subpoena for the search warrant.

16 Q. Search warrant?

17 A. Blood alcohol. And I got it maybe a half hour later. So  
18 timewise.

19 Q. So that's when it was determined he had a blood alcohol  
20 level but not before. Not when Autrey was there?

21 MR. ASHFORD: At the scene?

22 BY MR. ROBINSON (Continued):

23 Q. Not when Autrey was there at the hospital or at the  
24 scene, right?

25 A. I don't know.

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1 Q. That's when -- I mean, that's when it was determined?

2 A. That's when I discovered it.

3 Q. When you went there?

4 A. When I discovered it, yes.

5 Q. But it wasn't determined -- your investigation doesn't  
6 determine that it was disclosed anytime sooner than that,  
7 right?

8 A. I don't have anything to tell me that it was.

9 Q. So when Autrey went to the scene he wouldn't even know  
10 whether or not there was a blood alcohol level, right?

11 MR. ASHFORD: The blood alcohol level  
12 content.

13 BY MR. ROBINSON (Continued):

14 Q. Or any blood alcohol. Or whether Bettison had anything  
15 to drink. You don't know that, right?

16 A. I don't know.

17 Q. Now, wouldn't that be relevant? Wouldn't that be  
18 relevant in terms of putting two and two together?

19 A. In regards to --

20 Q. Alcohol bottles, blood alcohol?

21 A. Wait a minute. I'm sorry. Could you repeat that?

22 Q. Empty wine bottles, correct? Because you were  
23 concerned -- your criminal investigation was concerned  
24 with the wine bottles being evidence, right?

25 A. That's correct.



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1 Q. And Autrey picking them things up and throwing them away  
2 and destroying evidence, tampering with evidence,  
3 right?

4 A. Yes.

5 Q. But if Bettison wasn't drunk or Bettison had no wine,  
6 that he drank that would give him a blood alcohol level  
7 that would be illegal, then the wine bottle being empty,  
8 especially out on the street aren't a crime, they're not  
9 evidence of a crime?

10 MR. ASHFORD: Objection. Calls for  
11 speculation.

12 BY MR. ROBINSON (Continued):

13 Q. Correct?

14 A. I can only assume that. I don't know. Because if the  
15 bottles were inside of his vehicle, that would be  
16 probable cause to believe that alcohol was involved in  
17 the accident.

18 Q. But as your report, I think, reflected, the bottle that  
19 was handed to Bettison -- I'm sorry, to Autrey was handed  
20 to him by Chuney?

21 A. That's correct.

22 Q. And so -- and the other three bottles were already out on  
23 the street, correct?

24 A. (No response.)

25 Q. Chuney handed him the bottle.

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1 A. Yes. Yes.

2 Q. So as far as Autry was concerned, how did he know where  
3 the bottle was? It was inside the car or outside, all  
4 three of them were outside the car?

5 MR. ASHFORD: Objection. Calls for  
6 speculation.

7 BY MR ROBINSON (Continued):

8 Q. You don't know?

9 A. I don't know.

10 Q. You didn't ask Chuney?

11 A. No, I didn't.

12 Q. Isn't that important for your investigation? I mean, you  
13 do have to get the finite details in your investigation?

14 A. That's correct.

15 Q. You have to be concerned about the elements of the crime,  
16 correct?

17 A. Yes.

18 Q. Because you got to bring the complete picture to the  
19 prosecutor and not portions of it, but the complete  
20 picture, correct?

21 A. Yes.

22 Q. The prosecutor can only do what you give him, correct?

23 A. And like I told you earlier, we had may have had -- I  
24 can't remember right now. We could have had some level  
25 of dialogue myself and the prosecutor in relationship to

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1           this, before the warrant was signed. I can't.

2   Q.     Right. But it doesn't do any good for us right now if  
3           you can't document that.

4   A.     Well.

5   Q.     Because it's in a speculation, it would come?

6                           MR. ASHFORD: You don't have to answer  
7           his question.

8   BY MR. ROBINSON (Continued):

9   Q.     We can only go by proof?

10   A.    I'm sorry?

11   Q.    We can only go by proof. We can't go by guess,  
12           speculation, right?

13   A.    Right.

14                       MR. ASHFORD: I mean, is that a  
15           question?

16   BY MR. ROBINSON (Continued):

17   Q.    Yeah, it's a question. We can't go by speculation and  
18           guess. We have to have proof. This is a criminal  
19           investigation?

20   A.    I can't recall.

21   Q.    This is something that can send somebody to jail,  
22           right?

23   A.    He was found not guilty. He didn't go to jail.

24   Q.    Hey, but you were there. You testified, didn't you? Or  
25           you were the officer in charge of the case, right?

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1 A. Yes.

2 Q. So you were there?

3 MR. ASHFORD: Off the record.

4 (Recess taken.)

5 MR. ROBINSON: Back on the record.

6 BY MR. ROBINSON (Continued):

7 Q. Now, you know, exculpatory evidence, you know what that  
8 is?

9 A. Yes.

10 Q. And you also have a responsibility to bring to the  
11 prosecutor's attention any exculpatory evidence?

12 A. Yes.

13 Q. And you said you did not get to talk to the lady witness  
14 that was there and that was the chick that saw -- the  
15 lady, not a chick. But saw the accident or heard it, is  
16 that what you're talking about?

17 A. Yes. I told the prosecutor that as well.

18 Q. It's my understanding that lady in some reference that  
19 I've seen said that it didn't appear to her that Bettison  
20 was even intoxicated or something like that. Do you  
21 remember something like that?

22 A. No, I don't remember that at all.

23 Q. I know that the EMS guy said that Bettison didn't appear  
24 to be intoxicated, do you remember that?

25 A. No.

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1 Q. I wish I remember where I saw that. But I swear I saw  
2 it.

3 You did interview the EMS people,  
4 though, right?

5 A. I believe I requested some of their activity log sheets.  
6 I may have interviewed them as well. I can't recall  
7 right this second.

8 Q. Now, if he did not appear -- Bettison did not appear to  
9 be intoxicated, then that would be a factor, exculpatory  
10 factor, as it were, right? With respect to any intent  
11 that Autrey might have had to hide evidence, wouldn't it  
12 have been?

13 A. I can't say that, because just because it doesn't appear  
14 does not mean that he is not underneath the influence of  
15 alcohol or some type of other medication.

16 Q. True. True. But if somebody makes the observation that  
17 in their opinion, he's not, then it's relevant  
18 information that could be exculpatory and you've got  
19 responsibility to provide all exculpatory information,  
20 correct?

21 MR. ASHFORD: I'm going to object to  
22 that. It's calling for a legal conclusion.

23 Object as to form, also.

24 BY MR. ROBINSON (Continued):

25 Q. As an investigator, correct?

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1 A. I would assume so.

2 Q. Now, nobody else in your investigation retrieved the car  
3 seat that belonged to Bettison, correct? Autrey's the  
4 only one that retrieved it, the car seat?

5 A. Yes.

6 Q. And that was a baby car seat, right?

7 A. Yes.

8 Q. Infant car seat?

9 A. It was just identified as a car seat, a child car seat.

10 Q. But it wasn't one that belonged to the police  
11 department?

12 A. No. No.

13 Q. So Autrey in that sense was getting a car seat out of the  
14 police car because the police car soon was going to be  
15 towed somewhere, correct?

16 A. Yes.

17 Q. Was there anything improper about Autrey getting the car  
18 seat out of Bettison's car to preserve it for Bettison?  
19 Anything improper about that?

20 A. Other than that's a violation as far as on Commander  
21 Bettison's behalf that you have a car seat in a  
22 department vehicle. That's something else. But, no, him  
23 actually taking it out, no.

24 Q. And now it's fair to say that probable cause is a  
25 reasonable belief, correct, that a crime has been

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1 committed?

2 A. That's correct.

3 Q. A reasonable belief, correct?

4 A. Beyond a reasonable suspicion.

5 Q. I got that definition --

6 A. Pretty close to that.

7 Q. But it's a reasonable belief?

8 A. Yes.

9 Q. So belief has to be reasonable that a crime is  
10 committed?

11 A. Yes.

12 Q. Now, it's my understanding -- and you tell me whether or  
13 not this is accurate. When did you first learn the  
14 bottles had been thrown away in the dumpster behind the  
15 precinct?

16 A. I believe that Commander Stair had told me and then I  
17 think we -- I had advised him that it needs to be --  
18 Commander Autrey needs to give me some type of statement.  
19 Actually, all the bosses need to give me some kind of  
20 statement as to --

21 Q. So this would've been early on?

22 A. Yes.

23 Q. So why didn't somebody go to the precinct and retrieve  
24 the bottles if they were evidence? Nobody did that,  
25 right?

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1 A. No. No.

2 Q. So then that wasn't even treated like it was a crime  
3 then, right?

4 A. I think a week had passed --

5 Q. But did you check?

6 A. No, I didn't.

7 Q. Did you call?

8 A. I could only assume based upon Commander Autrey and him  
9 being straightforward in his statement.

10 Q. Right. And you learned that early on, prior to Autrey's  
11 statement that he wrote up to Stair?

12 A. Yeah. Probably within -- either that day that he  
13 actually did the interoffice memorandum or maybe the day  
14 before, at the most.

15 Q. And when you learned about it as an investigator, you  
16 didn't say, hey, go get those bottles or go look for the  
17 bottles, right?

18 A. Right. I didn't, no.

19 Q. But they still would've been evidence, correct?

20 A. If they were there. That's a lot of assumptions.

21 Q. And we don't want to assume, but we know that you didn't  
22 do it just in case, correct?

23 A. That's correct.

24 Q. But they were the corpus delicti, as it were, of the  
25 case, correct?



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1 A. Of this particular matter against Autrey, yes.

2 Q. Now, you had the discretion to go to your boss and tell  
3 your boss, hey, we don't have probable cause and I will  
4 not present a warrant, correct? You had the discretion  
5 to do that, correct?

6 A. Yes, I did.

7 Q. But you didn't do that?

8 THE WITNESS: Can we get a minute?

9 MR. ASHFORD: No. You have to answer  
10 the question.

11 Did you do that? Did you tell them  
12 that?

13 A. When I initially wrote up my investigation it did not  
14 include Commander Autrey.

15 BY MR. ROBINSON (Continued):

16 Q. It did not include Commander Autrey?

17 A. That's correct.

18 Q. Who told you to put Commander Autrey in?

19 A. I think it was a discussion between me and Commander  
20 Stair. Said, you know, going over the facts of it, that  
21 Commander Autrey did remove bottles from the vehicle and  
22 discard the bottles, that we need to type up an  
23 Investigator's Report in relationship to that as well.

24 Q. Okay. Because you --

25 MR. ROBINSON: Let me just get this.

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1 Off the record.

2 (Recess taken.)

3 MR. ROBINSON: Back on the record.

4 BY MR. ROBINSON (Continued):

5 Q. And when did he tell you that?

6 A. It had to be before I submitted any of this to the  
7 prosecutor's office.

8 Q. It was your -- you had done your investigation, though,  
9 prior, right?

10 A. As far as collecting all the information I could, yes.

11 Q. And it was your recommendation, initially, that Autrey  
12 shouldn't be involved in this?

13 A. Well, based upon what I initially looked at and seen what  
14 Commander Bettison's blood alcohol level was .22,  
15 irregardless to him in my opinion, discarding the  
16 bottles, it would've been nice to have as far as  
17 additional.

18 Q. But you didn't I need it?

19 A. But I didn't need it because the blood alcohol level was  
20 so high.

21 Q. And you don't need it in any case, for all intents and  
22 purposes -- and that was my thought when I first took the  
23 case. What do you need the bottles for when the blood  
24 alcohol is what it is. But I'm sorry, that was just an  
25 aside.

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1 All right. So do you know who Stair  
2 talked to prior to -- I mean, between your initial not  
3 putting Mr. Autrey in this and getting Mr. Autrey  
4 involved in this?

5 A. No, I don't know that. I don't know if he spoke to  
6 anyone.

7 Q. Okay. Now, do you know Todd Bettison?

8 A. Yes, I do.

9 Q. How well do you know Todd Bettison?

10 A. I've been knowing Bettison for a very long time.

11 Q. Okay. Now, did you know whether or not he had a drinking  
12 problem?

13 A. No, I didn't.

14 Q. Did you know whether or not he had been involved in  
15 Kwame Kilpatrick's campaign for reelection?

16 A. Yes.

17 Q. What did you know about that?

18 A. That his campaign group or whatever had donated a  
19 substantial amount of money to former Mayor Kwame  
20 Kilpatrick's campaign contribution, which I think it was  
21 over what the limit of -- a legal limit for campaign  
22 contributions was based upon the amount of people in his  
23 organization.

24 Q. Was that something that ever came to Internal Affairs  
25 into Internal Affairs information? Was that ever

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1 investigated by Internal Affairs?

2 A. I don't know.

3 Q. When did you learn about that?

4 A. I read it in the paper.

5 Q. And this was before the accident, correct?

6 A. I don't even know when I read it in the paper.

7 Q. Did you feel any political pressure at any point in  
8 time?

9 A. No.

10 Q. You say that so quickly and confidently?

11 A. Because I do my job.

12 I don't bend down to political pressure  
13 from nobody.

14 MR. ROBINSON: Young man, and it does  
15 come across that you do your job. You really do and I  
16 want to compliment you.

17 THE WITNESS: Thank you.

18 MR. ROBINSON: And I want to thank you  
19 for your time.

20 THE WITNESS: Thank you.

21 MR. ROBINSON: You ought to be a lawyer.

22 THE WITNESS: Thank you.

23 MR. ASHFORD: I have one question just  
24 to make the record clear.

25

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1

EXAMINATION

2

BY MR. ASHFORD:

3

Q. Officer Kennedy, when you presented your packet to the  
prosecutor on June 8th of 2007, included in that packet  
was the Autrey interoffice memorandum to Brian Stair; is  
that correct?

6

7

A. That is correct.

8

MR. ASHFORD: I have nothing further.

9

10

MR. ROBINSON: Okay. I don't have  
anything else.

11

(Deposition concluded at 12:49 p.m.)

12

- - -

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1 STATE OF MICHIGAN)

2 ) ss

3 COUNTY OF OAKLAND)

4

5 I, Darlene K. May, Notary Public within and for  
6 the County of Oakland, (Acting in Wayne), State of Michigan, do  
7 hereby certify that the witness whose attached deposition was  
8 taken before me in the above-entitled matter was by me duly  
9 sworn at the aforementioned time and place; that the testimony  
10 given by said witness was stenographically recorded in the  
11 presence of said witness and afterwards transcribed by computer  
12 under my personal supervision, and that the said deposition is  
13 a full, true and correct transcript of the testimony given by  
14 the witness.

15 I further certify that I am not connected by blood  
16 or marriage with any of the parties or their attorneys, and  
17 that I am not an employee of either of them, nor financially  
18 interested in the action.

19 IN WITNESS WHEREOF, I have hereunto set my hand at  
20 the City of Novi, County of Oakland, State of Michigan, this  
21 23rd day of September, 2010.

22

23 /s/ Darlene K. May  
24 Darlene K. May, Notary Public  
25 Oakland County, Michigan  
My commission expires: 01-13-14

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